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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,650	03/19/2004	Kurt Schwarzwald	63,799-0057	7763

7590 11/03/2005
DYKEMA GOSSETT PLLC
39577 WOODWARD AVENUE, SUITE 300
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EXAMINER

HUSON, MONICA A

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/804,650

Applicant(s)

SCHWARZWALDER ET AL.

Examiner

Monica A. Huson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>062104, 111904</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Weaver et al. (U.S. Patent 4,379,802). Regarding Claim 1, Weaver et al., hereafter “Weaver,” show that it is known to carry out a method for forming a polymeric component (Abstract) comprising providing a primary extrusion in a solid state (Column 11, lines 49-51); zone heating at least one portion of the primary extrusion to create a molten zone within the at least one portion, leaving surrounding portions of the primary extrusion in a solid state (Column 3, lines 52-64; Column 11, lines 40-42); and compressing the at least one portion between a pressing unit and a die cavity until the at least one layer takes the shape of the pressing unit and die cavity and forms a solid state section molded feature integral with the primary extrusion (Column 11, lines 43-44).

Regarding Claim 2, Weaver shows the process as claimed as discussed in the rejection of Claim 1 above, including a method further comprising heating a polymeric compound and forcing the heated compound through an orifice to form a heated extrusion; and cooling the heated extrusion to form a primary extrusion in a solid state (Column 11, lines 49-51).

Regarding Claim 3, Weaver shows the process as claimed as discussed in the

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rejection of Claim 1 above, including a method further comprising aligning the zone heating and compression steps in an offline operation and forming the section molded portion in the offline operation (Column 10, lines 15-16).

Regarding Claim 4, Weaver shows the process as claimed as discussed in the rejection of Claim 1 above, including a method further comprising aligning the heating, cooling, zone heating, and forcing steps in an inline operation, and forming the polymeric component in the inline operation (Column 10, lines 15-16).

Regarding Claim 5, Weaver shows the process as claimed as discussed in the rejection of Claim 1 above, including a method comprising applying zone heating of the infrared heating type (Column 11, lines 42-43).

Regarding Claim 6, Weaver shows the process as claimed as discussed in the rejection of Claim 1 above, including a method further comprising providing a section mold unit having at least one pressing unit and at least one die cavity for forming a section molded feature integral to the primary extrusion and aligning the at least one molten zone with a corresponding die cavity of the section mold in preparation of compressing the molten zone (Column 10, lines 13-28).

Regarding Claim 7, Weaver shows the process as claimed as discussed in the rejection of Claims 1 and 6 above, including a method further comprising providing the die cavity to be comprised of a split die having a combined shape corresponding to the outer shape of a barbed projection to be section molded from the primary extrusion, providing the pressing unit to be comprised of an upper mandrel having a shape corresponding to the inner shape of the barbed projection, and raising the mandrel and separating the split die to release the polymeric component (Column 10, lines 13-28;

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Column 11, lines 40-46).

Regarding Claim 8, Weaver shows the process as claimed as discussed in the rejection of Claim 1 above, including a method further comprising clamping the solid state portion of the primary extrusion to stabilize the primary layer prior to compressing the molten zone (Column 11, lines 36-39).

Regarding Claim 9, Weaver shows the process as claimed as discussed in the rejection of Claim 1 above, including a method simultaneously zone heating a plurality of portions along the length of the primary extrusion to simultaneously create a plurality of molten zones, leaving the surrounding portions of the primary extrusion in a solid state; providing a section mold having a plurality of die cavities and pressing units; and aligning each portion of the multilayer length of material having a molten zone with a corresponding die cavity of the section mold (Column 4 lines 27-40; It is noted that the rib sections are the plurality of portions, and the corresponding mold cavities are the plurality of die cavities.).

Regarding Claim 10, Weaver shows the process as claimed as discussed in the rejection of Claim 1 above, including a method further comprising providing a section mold unit including a plurality of identical die cavities and pressing units (Column 4, lines 27-40).

Regarding Claim 11, Weaver shows the process as claimed as discussed in the rejection of Claim 1 above, including a method further comprising providing a section mold having a plurality of die cavities and pressing units and wherein at least one die cavity and pressing unit defines a section mold feature shape different from the at least one other die cavity and pressing unit (Column 4, lines 27-40).

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Regarding Claim 12, Weaver shows the process as claimed as discussed in the rejection of Claim 1 above, including a method including advancing the multilayer length of material (Column 11, lines 11, lines 36-40), zone heating a first portion of the primary extrusion to create a molten zone within the first portion, while leaving the remaining portion of the primary extrusion in a solid state (Column 3, lines 52-64; Column 11, lines 40-42); providing a section mold having a die cavity and pressing unit, the die cavity and pressing unit (Column 11, lines 40-45- the cavity for one rib); aligning the molten zone of the first portion with the die cavity (Column 10, lines 13-28); compressing the first portion between the pressing unit and the die cavity until the first portion takes shape defined by the die cavity and pressing unit and forms a solid state integral with the primary extrusion (Column 11, lines 40-45); zone heating a second portion of the multilayer length of material to create a molten zone within the second portion, leaving the surrounding portion of the primary extrusion in a solid state (Column 3, lines 52-64; Column 11, lines 40-42); aligning the molten zone of the second portion with the die cavity (Column 10, lines 13-28- the cavity for another rib); compressing the second portion between the pressing unit and the die cavity until the second portion takes shape defined by the die cavity and pressing unit and forms a solid state integral with the primary extrusion (Column 11, lines 40-45). It is noted that the claim is not written in a way which requires the steps to be performed in the given order.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/418784. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application fully encompass the cited claims of application 10/418784.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monica A. Huson whose telephone number is 571-272-1198. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Colaianni can be reached on 571-272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Monica A Huson
October 21, 2005


MICHAEL P. COLAIANNI
SUPERVISORY PATENT EXAMINER